



**DEPARTMENT OF ECONOMIC DEVELOPMENT
OFFICE OF THE PUBLIC COUNSEL**

**From The Office Of State Auditor
Claire McCaskill**

**Report No. 2002-30
April 19, 2002
www.auditor.state.mo.us**

AUDIT REPORT



Office Of The
State Auditor Of Missouri
Claire McCaskill

April 2002

The following problems were discovered as a result of an audit conducted by our office of the Department of Economic Development, Office of the Public Counsel.

Executive Order 01-19, issued in November 2001, required executive branch agencies to manage for results, including performance improvement and efficiency efforts, strategic planning for policy innovation, and the use of performance measures in state decision-making. Office of the Public Counsel (OPC) staff indicated that in anticipation of this order, the Department of Economic Development (DED) required its various agencies to begin strategic planning efforts and to determine a baseline measurement of public awareness of their organizations.

To fulfill the DED requirement of baseline measurements, and due to limited personnel, in May 1999 the OPC joined with the Missouri Public Service Commission to engage the University of Missouri-Columbia to conduct a statewide telephone survey to determine consumer awareness of the two agencies. In May 2000, the OPC paid \$9,960 as its share of the cost of the survey. While a stated objective of the survey was to measure the degree of consumer awareness, there was no documentation of how the OPC planned to utilize the results of the survey.

The OPC maintains one vehicle, a 1998 Dodge van. According to vehicle usage logs, total usage for the van was approximately 8,800 miles and 10,900 miles for fiscal years 2001 and 2000, respectively. The OPC also paid \$1,331 and \$1,794 for in-state mileage to employees for fiscal years 2001 and 2000, respectively. The OPC has a policy, which appears to be complied with, that requires employees to use the van if it is available.

To ensure the OPC is using state resources efficiently, a usage study should be performed to compare the vehicle investment and depreciation, fuel, and ongoing maintenance costs with the alternative of simply paying employees for the personal use of vehicles.

The Office of the Public Counsel was established in July 1974 as a result of the provisions of the Omnibus State Reorganization Act of 1974. This act transferred the powers and responsibilities of the general counsel to the Missouri Public Service Commission, to the new Office of the Public Counsel. The Office of the Public Counsel is charged with the responsibility of representing the public before the Missouri Public Service Commission. In addition to handling rate increase cases, the public counsel has been involved in complaints dealing with rate reductions and cases dealing with rate design, utility mergers and acquisitions, generation capacity planning, rule-making, and consumer complaints. The public counsel can appeal the decision of the Missouri Public Service Commission to the courts of Missouri.

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YELLOW SHEET

DEPARTMENT OF ECONOMIC DEVELOPMENT
OFFICE OF THE PUBLIC COUNSEL

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STATE AUDITOR'S REPORT



CLAIRE C. McCASKILL
Missouri State Auditor

Honorable Bob Holden, Governor
and
Joseph L. Driskill, Director
Department of Economic Development
and
John B. Coffman, Acting Director
Office of the Public Counsel
Jefferson City, MO 65102

We have audited the Department of Economic Development, Office of the Public Counsel. The scope of this audit included, but was not necessarily limited to, the years ended June 30, 2001 and 2000. The objectives of this audit were to:

1. Review certain financial activity and related procedures, and examine compliance with certain constitutional provisions, statutes, administrative rules, and attorney general's opinions.
2. Review certain other internal control procedures and management practices.

Our audit was conducted in accordance with applicable standards contained in *Government Auditing Standards*, issued by the Comptroller General of the United States, and included such procedures as we considered necessary in the circumstances. In this regard, we reviewed applicable state laws, interviewed personnel, and inspected relevant records and reports of the Office of the Public Counsel.

As part of our audit, we assessed the office's management controls to the extent we determined necessary to evaluate the specific matters described above and not to provide assurance on those controls. With respect to management controls, we obtained an understanding of the design of relevant policies and procedures and whether they have been placed in operation and we assessed control risk.

Our audit was limited to the specific matters described above and was based on selective tests and procedures considered appropriate in the circumstances. Had we performed additional procedures, other information might have come to our attention that would have been included in this report.

The accompanying History, Organization, and Statistical Information is presented for informational purposes. This information was obtained from the Office of the Public Counsel's management and was not subjected to the procedures applied in the audit of the Office of the Public Counsel.

The accompanying Management Advisory Report presents our findings arising from our audit of the Office of the Public Counsel.

A handwritten signature in black ink, reading "Claire McCaskill". The signature is fluid and cursive, with the first name "Claire" and last name "McCaskill" clearly distinguishable.

Claire McCaskill
State Auditor

March 7, 2002 (fieldwork completion date)

The following auditors participated in the preparation of this report:

Director of Audits:	Kenneth W. Kuster, CPA
Audit Manager:	Douglas J. Porting, CPA
In-Charge Auditor:	Rosemarie Edwards

MANAGEMENT ADVISORY REPORT –
STATE AUDITOR’S FINDINGS

DEPARTMENT OF ECONOMIC DEVELOPMENT
OFFICE OF THE PUBLIC COUNSEL
MANAGEMENT ADVISORY REPORT –
STATE AUDITOR’S FINDINGS

1. Consumer Awareness Survey

Executive Order 01-19, issued in November 2001, required executive branch agencies to manage for results, including performance improvement and efficiency efforts, strategic planning for policy innovation, and the use of performance measures in state decision-making. Office of the Public Council (OPC) staff indicated that in anticipation of this order, the Department of Economic Development (DED) required its various agencies to begin strategic planning efforts and to determine a baseline measurement of public awareness of their organizations. A primary projected outcome in the OPC's initial strategic plan was to increase awareness of consumer rights and responsibilities, and of issues related to utility services. To achieve this outcome, the OPC identified and undertook several tasks including development of a web page and a newsletter, increased public presentations, and preparation of newspaper columns.

To fulfill the DED requirement of baseline measurements, and due to limited personnel, in May 1999 the OPC joined with the Missouri Public Service Commission (PSC) to engage the University of Missouri – Columbia to conduct a statewide telephone survey to determine consumer awareness of the two agencies. In May 2000, the OPC paid \$9,960 as its share of the cost of the survey. While a stated objective of the survey was to measure the degree of consumer awareness, there was no documentation of how the OPC planned to utilize the results of the survey. Also, other than the development of several informational brochures, it doesn't appear the OPC has significantly changed its strategic plan or office procedures based on the results of the survey. A second cooperative survey has recently been completed during fiscal year 2002 and it appears the OPC is planning to periodically perform these surveys in the future. Similarly, there doesn't appear to be a specific plan for the use of the results of the most recent, or future, surveys.

The OPC is responsible for representing the public in utility issues before the PSC. Most of its involvement in such activities is generated from notifications of actions filed before the PSC. While consumer complaints to the OPC do initiate some actions, a significant portion of these complaints are referred to the PSC or utility companies for followup. Given the limited impact of consumer awareness on the operations of the OPC, the lack of specific plans for utilizing the results of the consumer surveys, and the limited changes generated by the survey findings, it appears these surveys may not be cost-beneficial or necessary.

WE RECOMMEND the OPC discontinue contracting for the consumer awareness surveys unless a compelling need for such information is documented and specific plans for the utilization of survey results are developed.

AUDITEE'S RESPONSE

Purpose of Survey

The consumer awareness survey was a DED requirement for purposes of the strategic planning process. One of the desired outcomes in the OPC's strategic plan since 1998 has been to increase public awareness of the OPC as a consumer advocate for utility consumers and to generally increase public awareness of consumer rights with regard to utility services. As it is phrased in the OPC's strategic plan for fiscal year 2000, one of the OPC's desired outcomes is:

Residential and small business utility customers will be fully informed about their consumer rights and responsibilities, and will be equipped to make informed choices about their utility services.

The primary purpose for conducting a consumer awareness survey is to establish a baseline. The 2000 survey determined the baseline level of public awareness of the OPC and determined the percentage of Missourians who know that they can contact the OPC or the PSC if they have a complaint or have a question about regulated utility services. The OPC believes that the survey was the most cost-effective and efficacious way to measure the awareness of our office by utility consumers generally.

The OPC believes that the survey is valuable, not only because of its ability to help determine the OPC's success in achieving a desired outcome, but also because it has the potential to help the OPC focus its limited resources. If the OPC can enhance its communications with residential and small business consumers throughout the state, it would expect awareness to increase, and as a result, it would expect to receive more feedback from consumers. The increased feedback should allow the OPC to more readily identify consumer fraud, unfair practices, and other problematic trends in utility service.

The OPC represents consumers as a group, not individually. However, individual complaints do bring problems to the OPC's attention that lead to general complaints against certain utility practices relating to billing and service. Individuals who tell the OPC about their problems often help identify important consumer protection issues, which are then raised by the OPC in a variety of PSC cases and court filings. One example is the recent complaint filed by the OPC against AmerenUE regarding its practice of charging late payment fees on "Cold Weather Rule" payment agreements. This complaint resulted in putting an end to an unfair billing practice, saving low-income consumers millions of dollars and would not have been discovered without feedback from individual consumers.

Furthermore, as a legal representative, the OPC also has an obligation to communicate with its clients (residential and small business consumers). Only by ensuring that the public is aware of how to contact the OPC can we be confident that we are apprised of general opinions on utility practices, and thus do our job of legally representing the interests of consumers.

Survey is Cost-Effective

The OPC believes that it pursued the survey in a very cost-effective way. The OPC has no expertise to perform a scientific survey itself. The telephone survey developed and conducted by the University of Missouri Center for Advanced Social Research (MUCASR) was scientific and contained techniques and lead-up questions designed to ensure the accuracy of the responses. It is expected that the value of the survey results would increase with each subsequent survey, allowing awareness to be tracked and identifying consumer attitudes over time.

By partnering with the PSC, the OPC benefited from the product at only 25% of the total cost and derived a better product through this inter-agency cooperation. The OPC negotiated this 25%/75% cost sharing percentage by examining the survey questions and determining which pertained to PSC, which pertained to the OPC, and which pertained to both.

The database created by the MUCASR has the potential to break down the results geographically (zip code) to help pinpoint problems in particular utility service territories. The university students who worked on this project, free of charge, offered some tips on public outreach to both the PSC and the OPC. If we are ever successful in securing additional funding in the future for public education, the survey would help the OPC determine the best use of those additional resources.

Documenting Plan for Utilizing Survey

The report recommends “discontinuing contracting for the consumer awareness surveys unless a compelling need for such information is documented and specific plans for the utilization of survey results are developed.” The OPC believes that the discussion above explains the compelling need for such surveys. As soon as the 2002 follow-up survey is completed and analyzed, the OPC will draft more detailed plans for using survey results. These results may suggest a redirection of current OPC resources towards problem utilities or troublesome utility practices.

2.

Underutilization of Vehicle

The OPC maintains one vehicle, a 1998 Dodge van. According to vehicle usage logs, total usage for the van was approximately 8,800 miles and 10,900 miles for fiscal years 2001 and 2000, respectively. The OPC also paid \$1,331 and \$1,794 for in-state mileage to employees for fiscal years 2001 and 2000, respectively.

Low mileage can be an indicator that the entity is not utilizing the vehicle efficiently or that the vehicle is not needed. The OPC has a policy, which appears to be complied with, that requires employees to use the van if it is available.

To ensure the OPC is using state resources efficiently, a usage study should be performed to compare the vehicle investment and depreciation, fuel, and ongoing maintenance costs with the alternative of simply paying employees for the personal use of vehicles.

WE RECOMMEND the OPC perform a usage study to determine the most efficient and economical method to provide for in-state employee transportation. If the office determines its state-owned vehicle is not necessary, the OPC should appropriately dispose of the vehicle.

AUDITEE'S RESPONSE

The audit report recommends that the OPC “perform a usage study to determine the most efficient and economical method to provide in-state employee transportation.” The OPC will gladly perform such a study and comparatively analyze the costs. However, we expect that our current use of an office car combined with the OPC office travel policy produces the most economical result.

The OPC’s state vehicle usage policy requires any employee traveling on state business to use the state vehicle or receive no mileage reimbursement for use of a personal vehicle. If the vehicle is already signed out to another employee for the needed date, then that employee is allowed to claim mileage for taking their own personal car. Employees are cautioned that use of the state vehicle is for state business only.

Based upon the OPC’s review of expense accounts and auto request log sheets for fiscal years 2000 and 2001, it is believed that significant costs have been avoided as a result of the travel policy and the availability of an office car. If the OPC did not have a vehicle and the same amount of travel occurred during fiscal year 2000, the OPC personnel would have been reimbursed for approximately 25,047 miles traveled during that period. At 29.5 cents per mile, that reimbursement would amount to \$7,389. Under the OPC’s current policy, only \$1,794 was spent for mileage reimbursements, plus \$542 in gas and \$107 in maintenance on the state vehicle. The OPC policy resulted in \$4,946 of avoided cost.

It should be noted that in June 2001, this vehicle was vandalized. As a result, the car was unavailable until September 2001 (fiscal year 2002). Five trips were reimbursed during June that likely would have involved state vehicle usage had the vehicle been available. Total miles traveled in fiscal year 2001 were approximately 18,901. If the OPC did not have a vehicle, reimbursement would have been made for these miles, totaling \$5,575. The OPC paid only \$1,331 in mileage reimbursement, plus \$475 in gas and \$16 in maintenance on the state vehicle until the vehicle was vandalized. The OPC policy resulted in \$3,753 of avoided cost.

The OPC plans to continue enforcing its state travel policy and will continue monitoring mileage used from trip to trip. The OPC does currently have data showing how many miles could have been compensated for trips if it did not enforce the current policy. However, the OPC will log whether the state vehicle is requested and used and begin to keep a log of miles used by personal vehicles, whether or not reimbursement was sought. This can be indicated on each expense report where any vehicular travel is incurred. The OPC would be willing to use any type of spreadsheet, form, or log the State Auditor would recommend be utilized to reflect this usage.

The OPC is confident that without a vehicle and our current travel reimbursement policy, it would be spending several thousand dollars more each fiscal year and that it would not be cost efficient for our agency to relinquish its vehicle.

AUDITOR'S COMMENT

While the "avoided costs" noted above may reflect an accurate savings of annual cash outlays, the analysis does not consider the initial purchase price of the state vehicle spread over its useful life or probable higher ongoing maintenance and repair costs as the vehicle ages. Future usage studies should include such components.

This report is intended for the information of the Department of Economic Development, Office of the Public Counsel's management and other applicable government officials. However, this report is a matter of public record and its distribution is not limited.

HISTORY, ORGANIZATION, AND STATISTICAL INFORMATION

DEPARTMENT OF ECONOMIC DEVELOPMENT
OFFICE OF THE PUBLIC COUNSEL
HISTORY, ORGANIZATION, AND STATISTICAL INFORMATION

The Office of the Public Counsel was established in July 1974 as a result of the provisions of the Omnibus State Reorganization Act of 1974. This act transferred the powers and responsibilities of the general counsel to the Missouri Public Service Commission, to the new Office of the Public Counsel. Chapter 386, RSMo was amended in 1977 to explicitly define the duties and responsibilities of the public counsel. The Office of the Public Counsel was organizationally under the jurisdiction of the Department of Consumer Affairs, Regulation and Licensing (CARL) until September 7, 1984, when a constitutional amendment created the Department of Economic Development to replace the Department of CARL.

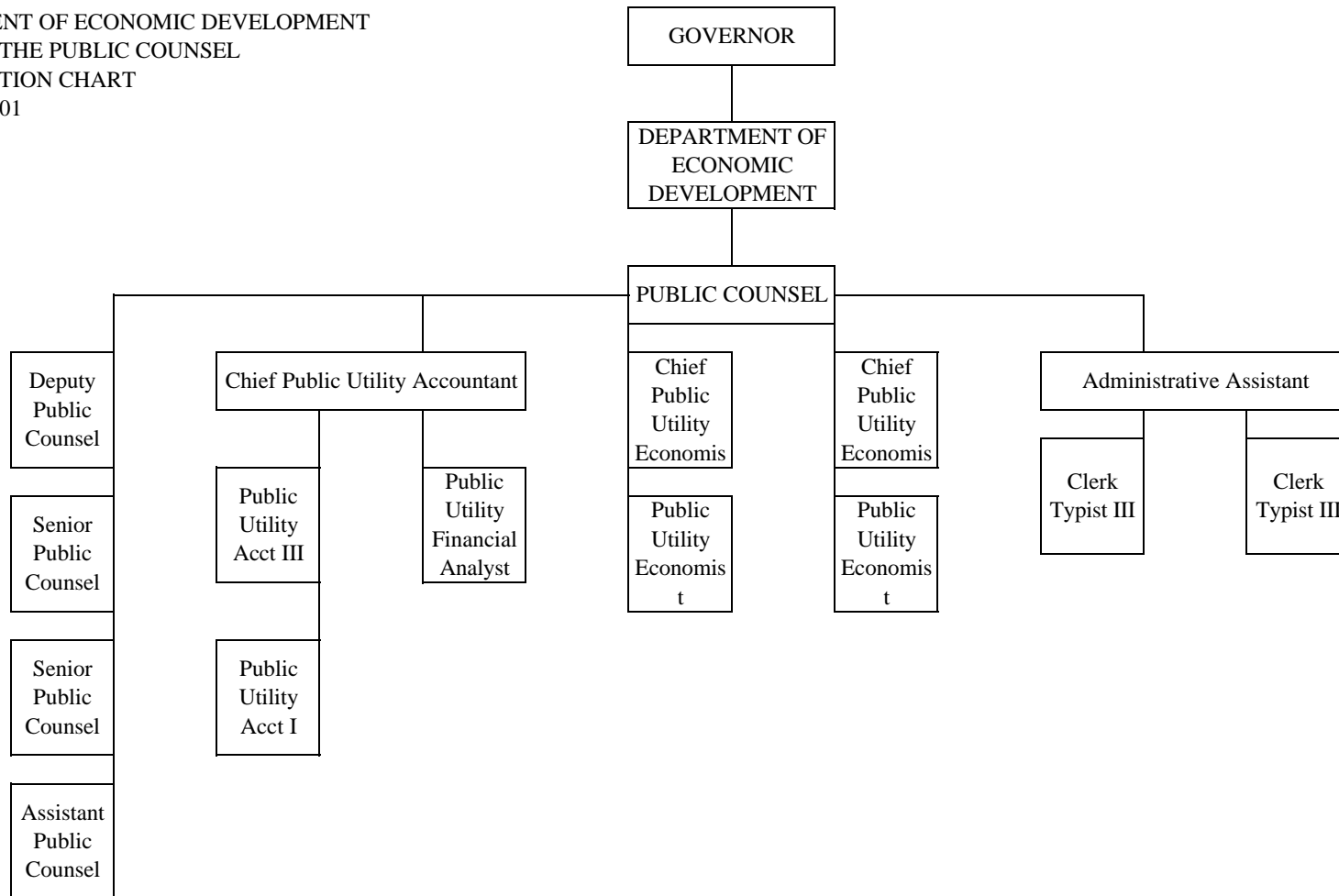
The Office of the Public Counsel is charged with the responsibility of representing the public before the Missouri Public Service Commission. In addition to handling rate increase cases, the public counsel has been involved in complaints dealing with rate reductions and cases dealing with rate design, utility mergers and acquisitions, generation capacity planning, rule-making, and consumer complaints. The public counsel can appeal the decisions of the Missouri Public Service Commission to the courts of Missouri.

Funding for the Office of the Public Counsel is provided by the legislature from the state's General Revenue Fund.

Martha S. Hogerty served as Public Counsel from her appointment, effective January 1, 1989 until her resignation, effective December 31, 2001. John B. Coffman is currently serving as Acting Public Counsel.

The Office of the Public Counsel at June 30, 2001 consisted of sixteen staff members. Besides the public counsel, there were four other lawyers, four accountants, one financial analyst, four economists, and three administrative staff. An organization chart follows.

DEPARTMENT OF ECONOMIC DEVELOPMENT
OFFICE OF THE PUBLIC COUNSEL
ORGANIZATION CHART
JUNE 30, 2001



Appendix A

DEPARTMENT OF ECONOMIC DEVELOPMENT
OFFICE OF THE PUBLIC COUNSEL
COMPARATIVE STATEMENT OF APPROPRIATIONS AND EXPENDITURES

		Year Ended June 30,					
		2001			2000		
				Lapsed			Lapsed
		Appropriations	Expenditures	Balances	Appropriations	Expenditures	Balances
GENERAL REVENUE FUND - STATE							
Personal Service	\$	715,038	696,198	18,840	0	0	0
Expense and Equipment		212,637	184,645	27,992	0	0	0
Personal Service and Expense and Equipment					890,620	863,667	26,953
Hotel Governor		106,892	87,615	19,277	120,221	13,329	106,892 *
Total General Revenue Fund - State	\$	1,034,567	968,458	66,109	1,010,841	876,996	133,845

Note: Appropriations for Personal Service and Expense & Equipment were not broken out separately for fiscal year 2000.

* Biennial appropriations set up in the current fiscal year are re-appropriations to the next year. After the June month-end processing has been completed, the unexpended appropriation balance for a biennial appropriation is established in the new fiscal year. Therefore, there is no lapsed balance for a biennial appropriation at the end of the first year.

Appendix B

DEPARTMENT OF ECONOMIC DEVELOPMENT
OFFICE OF THE PUBLIC COUNSEL
COMPARATIVE STATEMENT OF EXPENDITURES (FROM APPROPRIATIONS)

		Year Ended June 30,	
		2001	2000
Salaries and wages	\$	696,198	662,647
Travel		20,598	25,059
Supplies:			
Administrative and merchandising		28,869	17,785
Repair and maintenance		760	682
Specific use		6,114	5,423
Professional development		8,150	10,258
Services:			
Communications		4,305	700
Business		5,229	4,589
Professional		53,461	73,993
Equipment maintenance and repair		5,658	3,574
Equipment:			
Computer		21,100	22,093
Electronic		3,910	11,615
Office		50,929	396
Real property rentals and leases		16,520	0
Miscellaneous		434	73
Rebillable expenses		46,223	38,109
Total Expenditures	\$	968,458	876,996

* * * * *